

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: SORKIN, Felix L.

SERIAL NO.: 10/688,183

ART UNIT: 3636

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EXAMINER: Graysay, T. L.

TITLE: EXTRUDED UPPER BEAM SLAB BOLSTER FOR USE IN CONSTRUCTION

Amendment C: REMARKS

Upon entry of the present amendments, Claims 21 -32 have been canceled and new Claims 33 - 42 substituted therefor. Reconsideration of the rejections, in light of the forgoing amendments and present remarks, is respectfully requested. The present amendments have been entered for the purpose of placing the application into a proper condition for allowance.

In the Office Action, it was indicated that Claims 21 - 28 and 31 were provisionally rejected on the grounds of non-statutory obviousness-type double patenting relative to Claims 21 - 28 and 32 of co-pending Application No. 11/073,262 in view of the Sorkin '571 patent. It was also indicated that Claims 29, 30 and 32 are "allowed".

Although Applicant respectfully disagrees with the "obviousness-type" double patenting, Applicant is desirous of securing patent protection for the present invention at an early date. As such, Applicant has placed those "allowed" Claims into a proper independent form.

In particular, new independent Claim 33 incorporates the limitations found in previously "allowed" Claim 29. As such, independent Claim 33 should be in a proper condition for allowance. Dependent Claims 34 - 40 correspond, respectively, to the limitations found in previous dependent Claims 23 - 28. The dependencies of each of these dependent claims has been revised so as to reflect the amendment herein. Additionally, the term "leg member" found in new Claim 35 (previous

dependent Claim 23) is now recited as "leg members". Dependent Claim 41 corresponds to the limitations of previous dependent Claim 30.

New independent Claim 42 incorporates the limitations of "allowed" dependent Claim 32, along with intervening Claim 31. As such, independent Claim 42 should also be in a proper condition for allowance.

Based upon the foregoing analysis, Applicant contends that independent Claims 33 and 42 are now in proper condition for allowance. Additionally, those claims which are dependent upon these independent claims should also be in condition for allowance. Reconsideration of the rejections and allowance of the claims at an early date is earnestly solicited. Since no new claims have been added above those originally paid for, no additional fee is required.

Respectfully submitted,

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Date

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